



DEPARTMENT OF PERSONNEL

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MEMO PERD #32/98
September 22, 1998

**PERSONNEL COMMISSION MEETING
MINUTES OF JUNE 12, 1998**

The agenda for this meeting was mailed to groups and individuals as requested.

I. CALL TO ORDER

The Personnel Commission was called to order at 9:42 a.m., June 12, 1998, at the Legislative Building, Carson City, and video conferenced to the Grant Sawyer Building, Las Vegas. Members present: Ted Manos, Teo Gamboa, Victoria Riley, and Claudette Enus. Member absent: James Skaggs. Also present were: Sharon Murphy and Carol Thomas representing the Department of Personnel, and Jim Spencer representing the Attorney General's office.

II. ADOPTION OF AGENDA

Item VI, Appeal of Chief Accountant, was removed from the agenda. Commissioner Riley's motion to approve the agenda was seconded by Commissioner Enus and unanimously approved.

III. MINUTES OF PREVIOUS MEETING

The minutes of the March 20, 1998, Personnel Commission Meeting were approved by acclamation.

IV. SELECTION OF HEARINGS OFFICERS

Applications from the following individuals were received for the Northern and Southern Hearings Officer positions, and the alternative positions in the north and south:

<i>Patrick G. Christoff</i>	<i>David A. Hintzman</i>	<i>Persi J. Mishel</i>
<i>Louis M. Daraban</i>	<i>Daniel S. Hussey</i>	<i>Victor M. Perri</i>
<i>Patrick D. Dolan</i>	<i>Ed Irvin</i>	<i>George M. Ranalli</i>
<i>John J. Graves, Jr.</i>	<i>Arleen N. Kaizer</i>	<i>David K. Robinson</i>
<i>Kent B. Hanson</i>	<i>David Kladney</i>	<i>Peter J. Smith</i>

MEMO PERD #32/98

September 22, 1998

Page 2 of 16

Chairman Manos invited the candidates to address the Personnel Commission.

Patrick D. Dolan stated he would provide the best work product he is capable of producing. Regarding the increasing workload, Mr. Dolan heard 58 cases in the last year. Every ninth case is heard by the alternate hearings officers. He suggested the alternate hearings officer be assigned every eighth case instead to gain experience.

Mr. Dolan believes the number of "whistle-blower" cases will continue to grow, and he sees a need to create an ombudsman or screening process to handle the preliminary aspects of those cases. If the case appears to have merit, there should be a mechanism in place to provide representation for the individual submitting the case.

David Robinson has served as the southern alternate hearings officer for the past two years and was applying for all four positions. He serves in the Federal Mediation Service and the AAA as a labor arbitrator, serves as an appointed arbitrator, and pledged his continued dedicated service.

Chairman Manos asked if Mr. Robinson was a resident in both the north and south. Mr. Robinson responded he lived in Las Vegas, but could provide service in the north as well.

John Graves, the incumbent southern hearing officer, supported Mr. Dolan's suggestion that the alternate hearings officer should be assigned every eighth case, and suggested a possible further reduction in the future.

In responding to a letter of opposition to his reappointment from the State of Nevada Employee's Association, Mr. Graves disclosed during his 16 years as the southern hearings officer, this was the only opposition he had received. He indicated the length of his hearings over the last few months have ranged from one to five days; additionally, the lengths also increased because he tried to accommodate extension requests by both the agency and the employee. His longest is a current case which is expected to last 23 months because a post-hearing motion was filed. He pointed out Mr. Dolan had a case which lasted for 33 months.

In responding to another criticism raised, he explained that if his decisions are unsound, the State of Nevada Employee's Association should appeal them to District Court. In the last 16 years, his decisions were reversed twice by the District Court and once by the Nevada Supreme Court. Additionally, the statistics provided to the Commissioners regarding the hours expended per case by hearings officers indicated Mr. Graves' time frames were consistent with Mr. Dolan's.

Chairman Manos asked if the majority of cases brought before the hearings officers involved the same individual from the Attorney General's Office who represented the State and a certain representative from the State of Nevada Employee's Association. Mr. Graves responded in the

MEMO PERD #32/98

September 22, 1998

Page 3 of 16

south, as in the north, the State of Nevada Employee's Association does represent many individuals who appear before him; however, private counsel, in many instances, represent the employees. The State agencies each have representatives from the Attorney General's Office to handle their cases.

Commissioner Riley inquired about the cases and hours billed by the hearing officers. Mr. Graves stated Mr. Dolan was assigned 50 cases, billed 827.22 hours, with the average number of hours per case being 16.55. Mr. Graves had 35 cases and averaged 16.96 hours per case. Therefore, the hearings officers in the north and south were expending nearly the same number of hours per case.

When Chairman Manos asked if anyone from the State of Nevada Employee's Association wanted to respond to Mr. Graves' testimony, there was no response.

Peter Smith, candidate for the northern hearings officer and alternate northern hearings officer positions, stated he could offer a fresh approach to the position, a lower rate, and had experience as an Unemployment Security Division Field Referee, where he heard several hundred cases during the last few years as a contract hearings officer. Those cases determined whether there was cause for dismissal or disciplinary action. Mr. Smith stated he would handle all cases in a professional manner.

Kent Hanson, a candidate for the alternate northern hearings officer position, explained he had extensive experience in personnel hearings, primarily in administrative hearings. He has taken administrative cases on appeal at the District and Nevada Supreme Court levels. He is familiar with the review standards and has presided over 15 personnel cases. He is very familiar with the details of the classified system and has advised clients/State agencies regarding the importance of the balance in the system.

David Kladney, alternate northern hearings officer, has performed in that capacity for two years and has been assigned eight cases: one has been decided, two decisions are pending, and the remainder have been resolved through settlement. He was previously employed by SNEA as their first "in-house" counsel for four years and was also employed by the Attorney General's Office for three years. During those seven years, he represented employees and employers in over 100 personnel cases.

Dan Hussey, a candidate for the alternate southern hearings officer position, is a past Chairman of the Personnel Commission and, in that capacity, appointed the first hearings officer. Previously, the Personnel Commission had acted as hearings officers. He expanded the hearings officer positions to include one in the north and one in the south. When scheduling difficulties occurred and cases were not being heard in a timely manner, Mr. Hussey decided to enhance the staffing for this function by adding alternate hearings officers. Mr. Hussey specializes in personnel law. He works for the Clark County School District where 60 percent of his time is dedicated to personnel issues.

MEMO PERD #32/98

September 22, 1998

Page 4 of 16

Persi Mishel, an alternate southern hearings officer candidate, speaking from Las Vegas, presented his qualifications to the Commission. Mr. Mishel has practiced law in southern Nevada for 15 years and is experienced in state and federal jury trials. His employment-related experience includes unemployment and sexual discrimination law. He works for the State of Nevada Department of Business and Industry where he volunteers his time to work as a hearings officer in the Financial Institutions Division. He believes he is a good candidate for the alternate position because of his extensive experience in civil litigation.

Chairman Manos opened discussion on the selection of the hearings officer positions. He stated the positions were open to all members of the bar. To his knowledge, there has not been any particular dissatisfaction with any of the incumbents. Mr. Dolan's and Mr. Graves' job performances has been satisfactory. Chairman Manos personally reviewed the comments from SNEA regarding Mr. Graves and did not find merit in their objection. The Commission should not remove the incumbents from these positions unless they have shown an inability to perform.

Chairman Manos agreed with Mr. Dolan's and Mr. Grave's suggestion to assign every eighth case to the alternate hearings officer and suggested the Commission enact the request.

He pointed out it was also apparent that Mr. Kladney and Mr. Robinson were performing their jobs satisfactorily. For the record, Chairman Manos stated he is not familiar with the incumbents aside from his knowledge of them through the selection process. He was, however, very familiar with Mr. Hussey, who approached him prior to the hearing and asked that he be supported for the alternate southern hearings officer position. Chairman Manos indicated his support for Mr. Hussey, although he felt each applicant was more than qualified for the positions.

Commissioner Gamboa's motion to retain Pat Dolan and David Kladney as the northern hearings officer and the alternate northern hearings officer respectively was seconded by Commissioner Riley and unanimously approved. Mr. Dolan was appointed northern hearings officer and Mr. Kladney was appointed northern hearings officer alternate for two years.

Commissioner Riley asked Chairman Manos to expand on his findings regarding SNEA's allegations towards Mr. Graves. Chairman Manos responded he made individual inquiries regarding the allegations that Mr. Graves' actions were causing delays. He did not find the cases Mr. Graves handled were delayed in any greater manner than the cases handled by the Mr. Dolan, Mr. Kladney or Mr. Robinson. There normally were no objections to Mr. Graves' rulings.

Commissioner Enus believed the issues raised by SNEA regarding the length of time Mr. Graves' spent on his cases were satisfactorily answered.

Commissioner Enus' motion to retain John Graves as the southern hearings officer, and appoint Dan Hussey as the alternate southern hearings officer was seconded by Ted Manos (after relinquishing the chair to Commissioner Gamboa).

Chairman Gamboa called for discussion. Commissioner Manos stated Mr. Hussey would bring tremendous benefit to the process considering his tenure as Chairman of the Personnel Commission. Commissioner Enus stated personnel law is becoming specialized, and the addition of Mr. Hussey would be beneficial considering his expertise.

Chairman Gamboa called for a vote. The motion carried with 3 ayes and 1 nay (Ted Gamboa). He returned the gavel to Chairman Manos. John Graves was appointed southern hearings officer and Dan Hussey was appointed southern hearings officer alternate for two years.

Based on the comments introduced by Mr. Dolan and Mr. Graves, Chairman Manos requested a motion to assigned every eighth case to an alternate hearing officer.

Commissioner Gamboa's motion to assign every eighth case to an alternate hearing officer was seconded by Commissioner Enus, and unanimously approved.

Chairman Manos requested the Department of Personnel and the Office of the Attorney General investigate the issue raised by Mr. Dolan regarding the formation of a committee or process to screen whistle-blower claims and report back to the Commission at a subsequent hearing.

V. REGULATION CHANGES

Section 1: NEW; Date grievance is received.

Chairman Manos asked what would happen if the post mark could not be read. Sharon Murphy, Director, Department of Personnel, explained the post mark was used as the methodology for determining if deadlines were met. Jim Spencer, Deputy Attorney General, stated if the post mark was illegible, a hearing would be held with the employee to determine the date of postage which would result in a finding of fact. Sharon Murphy stated the intent of the regulation is to set a definitive time for the beginning and end of a deadline which everyone involved understood. The Department also determined grievances should be sent by mail, hand delivered or faxed because a formalized date of mailing/delivery could be determined with these methodologies. This would not be the case if the documents were sent by interdepartmental mail.

Alison Reardon, Employee Representative, State of Nevada Employee's Association, asked the Commission to consider additional language "...three days after the date the grievance was postmarked *or certified*..." The sender would then have a receipt showing when the document was mailed.

Commissioner Enus requested clarification of the three days and asked what would happen if it took longer than three days for the mail to reach its destination, but the postmark was within the allowable time. Chairman Manos stated the postmark would start the 10 day process, i.e., the time the department had to act on the grievance. If it takes 8 days for the mail to arrive, the department would have less time to act.

Phil Hauck, Department of Personnel, explained the language was selected because it was consistent with language in other regulations. To his knowledge, it has not been a problem; however, if a problem did occur, the department could modify the regulations to further address the situation.

Commissioner Riley asked if the addition of certified mail would pose an administrative problem. Mr. Hauck responded "no".

Mrs. Murphy supported the addition of certified mail; however, it should be at the employee's discretion. If the employee did not receive a response within ten days after mailing, then he could appeal to the next level.

Jim Spencer stated it was to the employee's benefit because the grievance timetable was compressed.

Commissioner Riley's motion to adopt the regulation change in Section 1 with the addition of *or certified* was seconded by Commissioner Enus and unanimously approved.

Section 2: 284.206; AMEND; Special adjustments to salaries.

Mr. Hauck clarified the 5 percent increase would be granted when an employee was supervising other employees.

Commissioner Riley's motion to adopt the regulation change in Section 2 was seconded by Commissioner Enus and unanimously approved.

Section 3: 284.210; AMEND; Compensation for differentials in shifts.

Commissioner Enus' motion to adopt the regulation change in Section 3 was seconded by Commissioner Riley and unanimously approved.

Section 4: 284.274; AMEND; Longevity pay: Dates of payment and eligibility.

Commissioner Gamboa's motion to adopt the regulation change in Section 4 was seconded by Commissioner Riley and unanimously approved.

Section 5: 284.470; AMEND; Preparation of reports.

Chairman Manos informed the Commission that following publication of the agenda, Section 5 was amended. Paragraph 4 was amended to read as follows:

If the employee disagrees with the report of performance and requests a review, he must respond to the report in writing and identify the specific points of disagreement, if such specificity is provided. The reviewing officer shall respond to the employee in writing within 10 working days after receiving the request.

Addressing the language on page 9 regarding the mutual agreement between the reviewing officer and employee to extend the response period, Chairman Manos asked if the words in writing should also be included to verify the extended response period. Mrs. Murphy responded she agreed to the additional language, since the Department of Personnel always put extension agreements in writing.

Chairman Manos proposed the amendment of Section 5, paragraph 5 to read:

...the reviewing officer and the employee mutually agree in writing to extend the period during which the reviewing officer must respond'.

Referring to the sentence in paragraph 4 regarding the mutually agreed upon extension period for the employee's response time, Alison Reardon requested the same language be added to paragraph 5, or the addition of a sixth paragraph to cover both paragraphs.

Chairman Manos concurred with Ms. Reardon's proposed addition of paragraph 6, to read:

The time requirements established in the preceding paragraphs may be extended upon mutual agreement of the parties in writing.

Commissioner Riley's motion to adopt the regulation change in Section 5 as amended was seconded by Commissioner Enus and unanimously approved.

Section 6: 284.650; AMEND; Causes for disciplinary action.

Chairman Manos asked if the phrase "...which arises out of or in the course of the performance of the employee's duties" addressed only the assault or battery or all the acts. Mr. Hauck responded the phrase referred to all the acts. Mr. Spencer suggested changing the language to read: "Any act of violence which arises out of the course of the performance of the employee's duties including without limitation, stalking, conduct that is threatening or intimidating, assault, or battery." The Chairman concurred.

Commissioner Riley's motion to adopt the regulation change in Section 6 as amended was seconded by Commissioner Enus and unanimously approved.

Section 7: 284.682; AMEND; Appeal of grievance to higher level.

Referring to the proposed language in paragraph 2b, Chairman Manos expressed concern because Section 1 states "*deemed to have been received,*" and someone could question what constituted receipt in reading the provision. Mr. Hauck confirmed the language was submitted by the Legislative Counsel Bureau, and Sections 7, 8 and 9 were tied together to conform with Section 1.

In Section 1, the Commission adopted language which says:

"For the purposes of 284.262...a grievance is deemed to have been received at each step in the grievance..." Section 7 states '*...employee has 10 working days to refer his grievance to the next level after a) he receives notification of the action or b) the passage of 10 working days after receipt of his grievance, whichever occurs first...*'"

Chairman Manos felt, instead of saying "*receipt*" it should read "*10 working days after the grievance is deemed to have been received, whichever occurs first.*" He also suggested amending paragraph 2.a. to read: "*He receives notification of the action that has been taken to satisfy the grievance or the decision to take no action thereon.*" This was because action may not have taken place, hence the purpose for taking the grievance to the next level. Mr. Hauck explained the intent of the amendment was to establish a time line for the individual to file at the next level.

Chairman Manos stated the language should be understandable to everyone and suggested the language read: "*a) He receives notification of the action; or b) the passage of 10 working days after the grievance is deemed to have been received, whichever occurs first.*"

Commissioner Riley's motion to adopt the regulation change in Section 7 as amended was seconded by Commissioner Enus and unanimously approved.

Section 8: 284.686; AMEND; Presentation of grievance to head of division.

Chairman Manos suggested the language "*receipt of an employee's grievance...*" be restated to read: "*If, within 10 working days after the grievances is deemed to have been received by his immediate supervisor, the employee has not received satisfactory relief...*"

Commissioner Gamboa's motion to adopt the regulation change in Section 8 as amended was seconded by Commissioner Riley and unanimously approved.

Section 9: 284.690; AMEND; Filing of grievance with administrator.

Chairman Manos requested changing the language to read "*...the grievance is deemed to have been received...*"

Commissioner Riley's motion to adopt the regulation change in Section 9 as amended was seconded by Commissioner Enus and unanimously approved.

Section 10: LCB File No. R031-98; AMEND; Interpretation of working day.

Commissioner Riley's motion to adopt the regulation change in Section 10 was seconded by Commissioner Gamboa and unanimously approved.

Section 11: Public declaration of implementation of Integrated Financial System.

Chairman Manos asked if Section 11 was a regulation or information. Additionally, he questioned whether a motion was required, or was it inherent in the expectation of the other regulations. Mr. Spencer clarified that Section 11 served to function as a "session law" which would not be permanently placed into Chapter 284, but would establish an effective date or a definition for a permanent regulation. The effective date of the regulation for Section 11 and Section 12, did not have to be permanently codified. The same is true for the language contained at the end of all the session laws; there would be an effective date if it were different from October 1. The purpose is to clarify when different sections of the bill become effective, but essentially would be erased when it occurred.

Commissioner Gamboa's motion to adopt the regulation change in Section 11 was seconded by Commissioner Riley and unanimously approved.

Section 12: Effective date of amendment to section 4.

Commissioner Riley's motion to adopt the regulation change in Section 12 was seconded by Commissioner Enus and unanimously approved.

VIII. CLASSES SUBJECT TO PRE-EMPLOYMENT SCREENING OF CONTROLLED SUBSTANCES

Department of Business and Industry

The Department of Business and Industry submitted a list of classes for Commission approval which represented previously approved classes and new classes being submitted for the first time, as listed in the agenda.

Commissioner Enus's motion to adopt the classes set forth by the Department of Business and Industry for Classes Subject to Pre-employment Drug Screening of Controlled Substances was seconded by Commissioner Riley and unanimously approved.

VI. APPEAL OF FISCAL MANAGEMENT CLASS SPECIFICATIONS

Item six was removed from the agenda per agreement.

VII. STATE OF NEVADA EMPLOYEES ASSOCIATION APPEAL

Method of Designating Equipment Mechanic Positions for Reclassification

Chairman Manos requested Mr. Spencer to explain whether he believed the Commission has jurisdiction to hear an appeal by the State of Nevada Employees Association regarding the method of designating equipment mechanic positions for reclassification.

Mr. Spencer explained that in order to invoke the jurisdiction of this Commission, one must bring to the Commission an issue that is appropriate for review under the doctrine of ripeness. The Commission has authority to review recommendations of the Department of Personnel regarding classification changes, and no such recommendation has been formalized; therefore, there is no recommendation for the Commission to review at this juncture. Further, to have jurisdiction, a party must demonstrate a standing to show they are aggrieved by an act; in this case, the act would be whether or not an individual is effected by a reclassification. No reclassification has occurred. The people whose positions may be effected are not petitioning this Commission for review. There was neither ripeness to invoke the jurisdiction of this Commission, nor standing if the issue was ripe. Furthermore, there is a doctrine in the law called Election of Remedies; SNEA has elected remedy in the grievance procedure. That remedy would be able to address their concerns as to whether regulations were violated or not. As Mr. Spencer explained to Sharon Murphy in his letter dated April 7, this Commission does not have jurisdiction to hear this matter as a reclassification challenge.

Chairman Manos summarized that the particular department apparently sent notices asking interested parties to apply for the position with the understanding it would not include any type of a raise. A number of employees applied, and two people were selected. The department intended to make a recommendation to the Department of Personnel that this salary level be increased.

Sharon Murphy responded the Department of Transportation assigned additional duties and responsibilities to the two employees who were selected. They performed those duties for a period of time. The Department of Transportation determined that a reclassification request should be submitted. The two employees submitted NPD-19's, a request for reclassification of the positions, and the Department of Personnel is currently analyzing the requests in order to make a classification determination. Ms. Reardon is not appealing that process, because the results have not yet been determined. She is appealing the initial methodology established in the selection of these two employees.

Chairman Manos asked Mr. Spencer if the Commission has the authority to review and approve departmental procedures and to notify the department when procedures are incorrect? In hearing the appeal as it stands now, is the Commission taking proper action, and would they in effect be informing the department it had no right to do something that was earlier done?

Mr. Spencer responded he did not believe the Commission had authority to intervene at this juncture. Each body, the hearing officers, the Employee-Management Committee, and the Commission have limited spheres of jurisdiction. If this matter came forward on a recommendation by the Department of Personnel for reclassification, at that point, the Commission would have jurisdiction to review, and would have to look at the broad process to decide if the reclassification was appropriate or not.

Commissioner Gamboa moved to table the matter. He agreed with counsel that the matter is not ripe, the grievant had no standing, and another remedy has been chosen.

Chairman Manos said a motion to table took precedence over everything and asked for a second. With no second forthcoming, he stated the Commission would hear from Ms. Reardon, but reiterated the fact that he did not believe the Commission had jurisdiction over the matter.

Alison Reardon addressed the issue of jurisdiction. The issue at hand had been raised before with the Department of Transportation. She stated her appearance before the Commission was solely on the issue of requesting the Department of Personnel to intervene because SNEA felt the Department of Transportation was not following the regulations. Ms. Murphy is the authority under statute and regulation, and the Commission was the final arbiter of her decision making. SNEA believed the Department of Transportation was circumventing the Personnel rules in this manner, and had preselected two individuals. (For the record, Ms. Reardon revealed one of the individuals was a union member.) She also verified the matter was under consideration with the Employee-Management Committee.

Chairman Manos asked if SNEA was appealing Ms. Murphy's non-action, to which Ms. Reardon concurred.

In stating this was a threshold issue, Commissioner Enus referred to Chapter 284:

An appointing authority, an employee, or the Department of Personnel, may request a temporary classification which allows the classification of a position for a temporary period of one year or less.

It did not say to whom the request was to be made. She also was not sure if the temporarily established position would have been established under 284.132. It appears the Department of Personnel, even before Employee-Management Committee comes into play, had or was in the position to make a determination as to whether or not departments are following established regulations, policies and procedures with regard to instituting a temporary position and making selection of an employee to that temporary position. If Mr. Spencer's believed the department had no authority to make that decision, then she would support that recommendation.

Chairman Manos asked if the Director of the Department of Personnel had the authority over an individual department to stop them from taking certain action? Mr. Spencer responded that was the key issue. There is a provision in the beginning of Chapter 284 which states "the Chapter does not limit the decision making of elective heads or department heads to run their businesses as they see fit." There is nothing in Chapter 284 which appoints the Department of Personnel as a policeman, and there is no supervisory function. There is a supervisory function vested in the Employee-Management Committee. The Director of the Department of Personnel does not have the authority of the Governor, who can direct agencies in running their affairs.

Chairman Manos stated if Ms. Murphy is not in a position to advise the Department of Transportation, then the Commission does not have jurisdiction, and Mr. Gamboa's motion is appropriate.

Commissioner Gamboa's motion that the Commission did not have the jurisdiction to hear the State of Nevada Employees Association Appeal regarding the method of designating equipment mechanic positions for reclassification was seconded by Commissioner Enus and unanimously approved.

IX. CLASSIFICATION APPEAL

Department of Transportation - Thomas Fronapfel, Assistant Director - Planning

Thomas Fronapfel, Assistant Director of Planning, Department of Transportation, presented his appeal. The reclassification request was based upon:

- 1) Direction given on two occasions by the Director of the Department of Transportation;
- 2) Discussions with the Department's Human Resources Manager;

- 3) An upgrade of subordinate personnel;
- 4) Recognition by the Deputy Director of the need for professional registration; and
- 5) The assignment of new duties and responsibilities which included geographic information systems, intelligent transportation systems, and the freeway management systems.

Significant changes in Mr. Fronapfel's duties and responsibilities occurring since the occupational study was conducted as well as recognition of professional registration were not reflected in the existing class specification.

Mr. Fronapfel's reclassification request was also based upon a recent reclassification of a direct subordinate. The subordinate directed the GIS activities and his position was elevated from a grade 43 to a grade 45 largely due to the new GIS activities effective June 17, 1997. This left only a five percent grade differential between that employee and Mr. Fronapfel. All three remaining Assistant Directors at the Department of Transportation had at least a ten percent grade differential between them and their nearest subordinate.

Members of the Commission asked if the Director of the Department of Transportation supported reclassification. Mr. Fronapfel stated the Director currently did not support it.

Commissioner Enus asked how the position had changed in light of the new responsibilities assigned to the position. Mr. Fronapfel explained the Freeway Management System and the Intelligent Transportation System, identified in 1991 as federal mandates, were not considered in the occupational study. The duties and responsibilities associated with that position were a multi-million dollar program resulting from a major study performed in Las Vegas to determine solutions to relieve congestion in the area. The Intelligent Transportation and the Freeway Management Systems primarily work together to speed up traffic flow, relieve congestion, and alert motorists to problems ahead.

Commissioner Enus asked if Mr. Fronapfel believed it was critical for him, in conducting his supervisory, administrative, and managerial responsibilities, to be a professional engineer in order to understand and make decisions relative to work being performed by his subordinates. Mr. Fronapfel responded affirmatively. He had five registered subordinates, three of which report directly to him. They interact regularly with other divisions staffed with professional registrants and understanding information within this interaction is critical and important.

Mary Ellen Komac, Supervisory Personal Analyst, Field Services Division, Department of Personnel, addressed the Commission regarding the appeal.

Chairman Manos asked if there was any significance to the change in title. Ms. Komac responded the title changes resulted from the 1993 Occupational Study which identified a need to distinguish between the positions in both title and grade level. The other Assistant Directors were currently titled Assistant Transportation Director, grade 47, which is the title and grade Mr. Fronapfel is requesting.

Ms. Komac explained the Department of Personnel determined there had not been change to the degree necessary to justify reclassification. This was not intended to underplay the importance and complexity of the position which is among the highest levels in the classified service. With the exception of medical job classifications, there are only two positions at at equivalent grade levels in classified service other than the Assistant Transportation Directors.

The additional duties associated with the programs were determined by the Department of Personnel to fall within the class concepts for Assistant Director of Planning and Program Development. Although the new programs represent an added challenge, new federally mandated programs and projects are not unusual for most agencies in State government. Many of Transportation's programs are developed at the federal level and delegated to the State. The planning, program development and expenditure of funds have customarily been implemented under federal mandates. They are the result of natural growth associated with both technological and statutory developments, but do not meet the standard of significant change. It is the Department of Transportation's opinion the position is still appropriately described by the existing class description for Assistant Director Planning and Program Development, grade 46.

Marilyn Yezek, Personnel Officer, Department of Transportation, informed the Commission the Department of Transportation supported the analysis and did not support the reclassification of the position.

Commissioner Gamboa asked how the Department of Personnel defined significant change in responsibility and why the department did not feel the changes in Mr. Fronapfel's position were significant. Ms. Komac responded when the department addresses significant change, they look at the degree of change. In comparing that to the basic intent of the classification, the changes in responsibility must include more complexity based on the duties which are described in the classification specification and the degree to which that description can no longer describe the position. Since a high level management position was being examined, the responsibility and complexity level threshold is very high, and even though these are new programs, they still fall within their long-range planning functions.

Commissioner Gamboa discussed the traffic problems in Las Vegas and stated since the class specification was revised in 1993, there has been significant growth in the population; therefore, Mr. Fronapfel is responsible to significantly more people. He asked how the department could say there was no significant change in the level of responsibility. Ms. Komac responded the significant impact of the population growth fall on the employees in Engineering and Operations

rather than Planning. Although Mr. Fronapfel was involved in planning and assessing the implementation of programs, the Engineering and Operations Sections were actually performing the engineering, designing, and constructing of the structural changes.

Conni Valley, Personnel Officer, Department of Transportation, agreed Planning is impacted by growth throughout the State, but that situation exists across the board in the Department of Transportation. Every position has changed because of the population change.

Commissioner Enus questioned the scope of Mr. Fronapfel's responsibility for planning and forecasting for the State, especially in the area of planning for growth. Ms. Komac responded that his responsibility involved long range and short range planning which was a continuing process.

Chairman Manos asked if there would be any ill effect if Mr. Fronapfel were upgraded. Ms. Valley responded that if he were upgraded to the same level as the Assistant Transportation Directors who had more responsibility, they would then expect to be upgraded, as would the District Engineers. The Department did not support the position being a registered professional engineer because a planner was needed in that position which required a background in planning, not engineering.

Commissioner Enus' motion to deny the appeal was seconded by Commissioner Riley and unanimously approved.

X. UNCONTESTED CLASSIFICATION ACTION REPORT

No vote required.

XI. SELECTIVE CERTIFICATION

No vote required.

XII. COMMENTS BY THE GENERAL PUBLIC

There were no comments from the general public.

XIII. SELECT DATE FOR NEXT MEETING

The next meeting of the Personnel Commission will be October 1 and 2, 1998, in Carson City, Nevada.

XIV. ADJOURNMENT

The Personnel Commission was adjourned at 12:50 p.m.

MEMO PERD #32/98

September 22, 1998

Page 16 of 16

Copies of the agenda and tape recording are available at the Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204, upon request.

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